

Remarks

In the Office Action, claims 10, 15, and 16 were objected to because of informalities. Further, claims 10-14 and 16 were rejected under 35 U.S.C. § 112, second paragraph. In addition, claims 15-17 were rejected under 35 U.S.C. § 103(a). Finally, claims 1-14 were rejected under the judicially created doctrine of obviousness-type double patenting.

Claims 10-12 and 15-16 have been amended. Claims 1-17 are currently pending in the instant application.

I. Informalities

Claims 10, 15, and 16 were objected to because of informalities. It was suggested in the Office Action that claim 10 be amended to delete the word “fixed” and replace it with “stationary.” Further, it was suggested that claim 15 be amended to delete the word “the” before “signal” and replace it with “a.” In addition, it was suggested that claim 16 be amended to delete the period in the middle of the claim and replace it with a comma.

Applicants thank the Examiner for the suggestions. The suggested amendments have been implemented into claims 10, 15, and 16. Reconsideration and withdrawal of the objections is respectfully requested.

II. § 112, ¶ 2 Rejections

Claims 10-14 and 16 were rejected under 35 U.S.C. § 112, ¶ 2 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. More specifically, it is asserted that in claims 10 and 11, there is insufficient antecedent basis for the limitation “the slidable member.” Also, it is asserted that claims 13 and 14 are indefinite as a result of these claims depending from rejected claim 10. Further, it is asserted that in claim 12, there is insufficient antecedent basis for the limitation “the motor.” It is also asserted that in claim 16, there is insufficient antecedent basis for the limitation “the moving parts.”

Claims 10-12 and 16 have been amended to address these rejections. Thus, claims 10-14 and 16 particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Reconsideration and withdrawal of the rejections is respectfully requested.

III. § 103(a) Rejections

Claims 15-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 4,708,685 to Udagawa (“Udagawa”) in view of U.S. Patent 5,524,326 to Markowitz (“Markowitz”). Applicants respectfully traverse.

A. Independent Claim 15 Is Not Made Obvious by Udagawa in View of Markowitz

Claim 15, as amended, is directed to an interactive remote-controlled amusement device having a magnetic portion “wherein the magnetic portion is configured to be capable of moving the magnetic object while the magnetic object remains in contact with the outer shell.”

Udagawa fails to teach or suggest a magnetic portion configured to be capable of moving a magnetic object while the magnetic object remains in contact with the outer shell. Udagawa, in contrast, discloses a magnet in the mouth of the mother dog-shaped lifting device that merely “can engage the magnet on one of the vehicles but, when the magnet is withdrawn into the head relative to the opening, the magnet becomes physically disengaged from the magnet on the vehicle.” See Udagawa, col. 4, ll. 2-6. The magnet in the mouth of the Udagawa device is not capable of moving the magnet on one of the vehicles while the magnet remains in contact with the device. Thus, Udagawa fails to teach or suggest a magnetic portion configured to be capable of moving a magnetic object while the magnetic object remains in contact with the outer shell.

Markowitz fails to remedy the deficiencies of Udagawa. Markowitz, as noted in the Office Action, merely “teaches a remotely controlled toy animal. See Office Action, p. 3.

Thus, neither Udagawa nor Markowitz, either alone or in combination with each other or any other prior art of record, teach or suggest an interactive remote-controlled amusement device having a magnetic portion “wherein the magnetic portion is configured to be capable of moving the magnetic object while the magnetic object remains in contact with the outer shell.” Thus, it is respectfully submitted that claim 15 is made obvious by Udagawa in view of Markowitz.

Reconsideration and withdrawal of the rejection is respectfully requested.

B. Claims Depending From Claim 15 Are Patentable

Because claims 16-17 depend directly from claim 15 and incorporate all the limitations of claim 15, the above argument obviates the basis for this ground of rejection. Thus, claims 16-17 are not made obvious by Udagawa in view of Markowitz. Reconsideration and withdrawal of the rejection is respectfully requested.

IV Double Patenting Rejections

Claims 1-14 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of U.S. Patent 6,672,934 B2 (“’934 Patent”).

While Applicants disagree that the currently pending claims are obvious over those of the ’934 Patent, in order to expedite allowance of the application, Applicants are filing a terminal disclaimer. Thus, Applicants are enclosing herewith a terminal disclaimer under 37 C.F.R. § 1.321, thereby obviating the basis for the rejection. Reconsideration and withdrawal of the rejection as a result of the terminal disclaimer is respectfully requested.

Conclusion

Applicants respectfully submit that claims 1-17 are in condition for allowance. Reconsideration and a Notice of Allowance for all pending claims is respectfully requested.

This Amendment and Response is filed in response to the Office action of May 10, 2004. A petition for a one-month extension of under 37 C.F.R. § 1.136(a) is filed herewith, making this Amendment due on or before Friday, September 10, 2004. A check in the amount of \$110 is enclosed herewith to cover the \$55 extension of time fee and the \$55 Terminal Disclaimer fee. It is believed no further fees are due with respect to the filing of this Amendment; however, if additional petitions or fees are required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1420 accordingly.

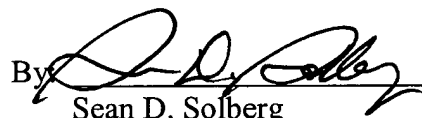
Respectfully submitted,

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